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| | Correction Slip No. 40/Rules/II.D4, dated 10th December, 2021, containing amendments/ insertions/substitutions in the Rules and Orders of Punjab and Haryana High Court, Volume-III. | .. 1-9 |

PART IV

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CORRECTION SLIP

The 10th December, 2021

No. 40 Rules/II.D4.-The following amendments/insertions/substitutions are made in the Rules and Orders of Punjab and Haryana High Court, Volume-III, in pursuance to the directions given by Hon'ble Supreme Court of India in *Suo Moto Writ (Criminal) No.1 of 2017 (under Article 32 of the Constitution of India) with regard to "Issuance of certain guidelines qua inadequacies and deficiencies in Criminal Trials versus The State of Andhra Pradesh and Others."*

- (I) The existing Rule 6, Part D, Chapter 1 of Rules and Orders of Punjab and Haryana High Court, Volume III is substituted as under:-**

"6. Warrant Case on police report-Police to furnish copies to accused before the trial commences.- In a warrant-case (Chapter XIX of the Code of Criminal Procedure, 1973) the procedure would now depend on whether the case has been instituted on a police report or otherwise. Section 238 to 243 of Code of Criminal Procedure, 1973 govern the procedure in warrant cases instituted on police reports. When the accused appears or is brought before the magistrate, the magistrate should, at the commencement of the trial, satisfy himself that he has complied with the provisions of Section 207 Cr.P.C. Further, every accused should be supplied with statements of witness recorded under Sections 161 and 164 Cr.P.C and a list of documents, material objects and exhibits seized during investigation and relied upon by the Investigating Officer in accordance with Sections 207 and 208 Cr.P.C.

Explanation: The list of statements, documents, material objects and exhibits shall specify statements, documents, material objects and exhibits that are not relied upon by the Investigating Officer."

- (II) The following words are inserted at the end of Rule 7, Part D, Chapter 1 of Rules and Orders of Punjab and Haryana High Court, Volume III:-**

"The order framing charge shall be accompanied by a formal charge in Form 32, Schedule II, Code of Criminal Procedure, 1973 to be prepared personally by the Presiding Officer after complete and total application of mind."

(III) The existing Rule 3, Part E, Chapter 1 of Rules and Orders of Punjab and Haryana High Court, Volume III is substituted as under:-

"3. (i) Mode of recording evidence.-

Section 272 to 283 of Chapter XXIII Part A of Code of Criminal Procedure, 1973 deals with mode of taking and recording of evidence in inquiries and trials.

(ii) Procedure for Recording Evidence.-

a) The depositions of witnesses shall be recorded, in typed format, if possible. The record of evidence shall be prepared on computers, if available, in the Court on the dictation of the Presiding Officer.

Provided that in case the language of deposition is to be recorded in a language other than English or the language of the State, the Presiding Officer shall simultaneously translate the deposition either himself or through a competent translator into English.

b) The deposition shall be recorded in the language of the witness and in English when translated as provided in the sub-rule (ii) (a) above.

c) The depositions shall without exception be read over by the Presiding Officer in Court. Hard copy of the testimony so recorded duly signed to be a true copy by the Presiding Officer/court officer shall be made available free of cost against receipt to the accused or an advocate representing the accused, to the witness and the prosecutor on the date of recording."

(iii) Format of recording evidence of witnesses.-

a) The deposition of each witness shall be recorded dividing it into separate paragraphs assigning paragraph numbers.

b) Prosecution witnesses shall be numbered as PW-I, PW-2 etc, in *seriatim*. Similarly, defence witnesses shall be numbered as DW-1, DW-2, etc., in *seriatim*. The Court witnesses shall be numbered as CW-1, CW-2, etc, in *seriatim*.

c) The record of depositions shall indicate the date of examination-in-chief, the cross examination and re-examination.

d) The Presiding Officers shall wherever necessary record the deposition in question and answer format.

e) Objections by either the prosecution or by defence counsel shall be taken note of and reflected in the evidence and decided immediately, in accordance with law, or, at the discretion of the learned Judge, at the end of the deposition of the witness in question.

f) The name and number of the witness shall be clearly stated on any subsequent date, if the evidence is not concluded on the date on which it begins.

(iv) Exhibiting of material objects and evidence.-

a) Prosecution exhibits shall be marked as Exhibit P-1, P-2 etc in *seriatim*. Similarly, defence exhibits shall be marked as Exhibit D-1, D-2, etc in *seriatim*. The Court exhibit shall be marked as Exhibit C-1, C-2, etc in *seriatim*.

b) To easily locate the witness through whom the document was first introduced in evidence, the exhibit number shall further show the witness number of such witness after the exhibit number. If an exhibit is marked without proper proof, the same shall be indicated by showing in brackets (subject to proof).

Explanation: If Prosecution witness no. 1 (PW1) introduces a document in evidence, that document shall be marked as Exhibit P-1/PW1. If proper proof is not offered for that document at the time when it is marked, it shall be marked as Exhibit P-1/PW1 (subject to proof). The Second document introduced by PW1 shall be marked as Exhibit P-2/PW1.

c) The Material objects shall be marked in *seriatim* as MO-1, M0-2 etc.

(v) Subsequent references to accused, witness, exhibits and material objects.-

a) After framing of charges, the accused shall be referred to only by their ranks in the array of accused in the charge and not by their names or other references except at the stage of identification by the witness.

b) After recording the deposition of witnesses, marking of the exhibits and material objects, while recording deposition of other witnesses, the witnesses, exhibits and material objects shall be referred by their numbers and not by names or other references.

- c) Where witness cited in the complaint or police report are not examined, they shall be referred to by their names and the numbers allotted to them in the list of witnesses attached with the complaint or police report.

(vi) References to statements under section 161 and 164 Cr.P.C.-

- a) During cross-examination, the relevant portion of the statements recorded under Section 161 Cr.P.C. used for contradicting the respective witness shall be extracted. If it is not possible to extract the relevant part as aforesaid, the Presiding Officer, in his discretion, shall indicate specifically the opening and closing words of such relevant portion, while recording the deposition, through distinct marking.
- b) In such cases, where the relevant portion is not extracted, the portions only shall be distinctly marked as prosecution or defence exhibit as the case may be, so that other inadmissible portions of the evidence are not part of the record.
- c) In cases, where the relevant portion is not extracted, the admissible portion shall be distinctly marked as prosecution or defence exhibit as the case may be.
- d) The aforesaid rule applicable to recording of the statements under Section 161 shall *mutatis mutandis* apply to statements recorded under Section 164 of the Cr.P.C, whenever such portions of prior statements of living persons are used for contradiction/corroboation.
- e) Omnibus marking of the entire statement under Section 161 and 164 Cr.P.C shall not be done.

(vii) Marking of confessional statements.-

The Presiding Officers shall ensure that only admissible portion of Section 8 or Section 27 Indian Evidence Act, 1872 is marked and such portion alone is extracted on a separate sheet and marked and given an exhibit number.”

(IV) Rule 1 (i) Part H, Chapter 1 of Rules and Orders of Punjab and Haryana High Court, Volume-III is substituted as under:-

“1. Contents of a judgment.-

- (i) In all cases, the judgment must be drawn up containing (1) the point or points for determination, (2) the decision thereon, and (3) the reasons

for the decision. In case of a conviction, the judgment should separately indicate the offence involved and the sentence awarded. In case there are multiple accused, each of them should be dealt with separately. In case of acquittal and if the accused is in confinement, a direction should be given to set the accused at liberty, unless such accused is in custody in any other case.”

(V) After Rule 1 (i) Part H, Chapter 1 of Rules and Orders of Punjab and Haryana High Court, Volume-III, following sub-rule (i-a) and (i-b) are inserted as under:-

“(i-a) Every judgment should contain the following:-

a) Start with a preface showing the names of parties as per **FORM 'A'** appended at the end of this chapter.

b) A tabular statement as per **FORM 'B'** appended at the end of this chapter.

c) An appendix giving the list of prosecution witnesses, defence witnesses, Court witnesses, Prosecution Exhibits, Defence Exhibits and Court Exhibits and Material Objects as per **FORM 'C'** appended at the end of this chapter.

(i-b) In the judgment the accused, witnesses, exhibits and material objects should be referred to by their nomenclature or number and not only by their names or otherwise. Wherever, there is a need to refer to the accused or witnesses by their name, the number should be indicated within brackets.”

(VI) The existing Rule 1 (viii) Part H, Chapter 1 of Rules and Orders of Punjab and Haryana High Court, Volume-III, is substituted as follows:-

“Numbering of paragraphs.- The judgment should be written in paragraphs and each paragraph should be numbered in *seriatim*. The Presiding Officers, may, in their discretion, organize the judgment into different sections.”

(VII) The existing Rule 15 of Chapter 10 of Rules and Orders of Punjab and Haryana High Court, Volume-III, is re-numbered as Rule 15 (i) and after the renumbered rule 15 (i) sub-rules (ii) and (iii) are inserted. Rule 15 of Chapter 10 of Rules and Orders of Punjab

and Haryana High Court, Volume-III be read as under:-

“15. Bail application to be treated as urgent.-

- i) All applications for bail in criminal cases including appeals should be treated as urgent.
- ii) The copy of reply to bail application or status report (by the police or prosecution) if any, shall be furnished to the accused if present, or his counsel as the case may be. The presiding officer may, in an appropriate case in its discretion insist on a statement to be filed by the prosecutor in charge of the case.
- iii) The application for bail in non-bailable cases must ordinarily be disposed off within a period of 3 to 7 days from the date of first hearing. If the application is not disposed off within such period, the Presiding Officer should furnish reasons thereof in the order itself. Copy of the order of the bail application should be furnished to the accused on the date of pronouncement of the order itself.”

(VIII) At the end of Chapter 1 of Rules and Orders of Punjab and Haryana High Court, Volume-III, Form 'A', Form 'B' and Form 'C' as mentioned below are inserted:-

FORM 'A'

IN THE COURT OF

Present:Sessions Judge

[Date of the Judgment]

[Case No/20 ...]

(Details of FIR/Crime and Police Station)

COMPLAINANT STATE OF

OR

NAME OF THE COMPLAINANT

REPRESENTED BY NAME OF THE ADVOCATE

ACCUSED 1. NAME WITH ALL PARTICULARS (A1)

2. NAME WITH ALL PARTICULARS (A2)

REPRESENTED BY NAME OF THE ADVOCATES

FORM 'B'

| | |
|--------------------------------------|--|
| Date of Offence | |
| Date of FIR | |
| Date of Chargesheet | |
| Date of Framing of Charges | |
| Date of commencement of evidence | |
| Date on which judgment is reserved | |
| Date of the Judgment | |
| Date of the Sentencing Order, if any | |

Accused Details:

| Rank of the Accused | Name of Accused | Date of Arrest | Date of Release on Bail | Offences charged with | Whether Acquitted or convicted | Sentence Imposed | Period of Detention Undergone during Trial for purpose Of section 428, Cr.PC |
|---------------------------|-----------------------|----------------------|----------------------------------|-----------------------------|---|---------------------|--|
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |

FORM 'C'

LIST OF PROSECUTION/DEFENCE/COURT WITNESSES

A. Prosecution:

| RANK | NAME | NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS) |
|------|------|---|
| PW1 | | |
| PW2 | | |

B. Defence Witnesses, if any:

| RANK | NAME | NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS) |
|-------------|-------------|---|
| DW1 | | |
| DW2 | | |

C. Court Witnesses, if any:

| RANK | NAME | NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS) |
|-------------|-------------|--|
| CW1 | | |
| CW2 | | |

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

A. Prosecution:

| Sr. No. | Exhibit Number | Description |
|----------------|-----------------------|--------------------|
| 1 | Exhibit P-1/PW1 | |
| 2 | Exhibit P-2/PW2 | |

B. Defence:

| Sr. No. | Exhibit Number | Description |
|----------------|-----------------------|--------------------|
| 1 | Exhibit D-1/DW1 | |
| 2 | Exhibit D-2/DW2 | |

C. Court Exhibits:

| Sr. No. | Exhibit Number | Description |
|---------|-----------------|-------------|
| 1 | Exhibit C-1/CW1 | |
| 2 | Exhibit C-2/CW2 | |

D. Material Objects:

| Sr. No. | Material Object Number | Description |
|---------|------------------------|-------------|
| 1 | MO1 | |
| 2 | M02 | |

BY ORDER OF HON'BLE THE CHIEF JUSTICE AND JUDGES

(ARUN KUMAR AGGARWAL)

Registrar (Rules)
for Registrar General.